

CHAPTER SEVEN
ENGINEERING CODE

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ARTICLE 1

Construction and Design Standards.

§ 7-1. Adoption of the City of Gillette 2020 Standard Construction Specifications.

The City of Gillette 2020 Standard Construction Specifications prepared by the Department of Engineering of the City of Gillette is hereby adopted by this reference and incorporated herein as if set out in full to regulate construction within the City of Gillette starting January 1, 2021. One copy shall be available for public inspection at the Office of the City Engineer and the Office of the City Clerk during normal business hours. The Department of Engineering will also provide copies for sale at a reasonable charge to cover the cost of preparation of the volume. (Ord. No. 1674, 3-2-88.; Ord. 3344, 10-4-2004; Ord. 3392, 11-7-2005 effective 1-1- 2006; Ord. 3653, 1-4-2010, effective 2-1-2010; Ord 3780, 12-17-2012, effective 1-1-2013, Ord. No. 3914, effective 5-1-2017; Ord. No. 3988, effective 1-1-2021).

§ 7-2. Adoption of the City of Gillette 2020 Design Standards.

The City of Gillette 2020 Design Standards, prepared by the Department of Engineering of the City of Gillette is hereby adopted by this reference and incorporated herein as if set out in full to regulate the design of public improvements within the City of Gillette starting January 1, 2021. One copy shall be available for public inspection at the Office of the City Engineer and the Office of the City Clerk during normal business hours. The Department of Engineering will also provide copies for sale at a reasonable charge to cover the cost of preparation of the volume. (Ord. 1788 03/18/91; Ord. 3344, 10-4-2004; Ord. 3392, 11-7-2005 effective 1-1- 2006 Ord. 3653, 1-4-2010, effective 2-1-2010; Ord 3780, 12-17-2012, effective 1-1-2013, Ord. No. 3914, effective 5-1-2017; Ord. No. 3998, effective 1-1-2021).

7-3. Adoption of City of Gillette 2010 CAD Standards

The City of Gillette 2010 CAD Standards, prepared by the CAD Standards Committee and the Department of Engineering of the City of Gillette is hereby adopted by this reference and incorporated herein as if set out in full to regulate the submission and review of engineering plans submitted for a City of Gillette Permit to Construct or Permit to Grade within the City of Gillette starting July 1, 2010. One copy shall be available for public inspection at the office of the Department of Engineering and the office of the City

Clerk during normal business hours. The Department of Engineering has provided a copy for public review and download on the City's website at <http://www.ci.gillette.wy.us/index.aspx?page=387>. (Ord. 3676, 5-17-2010)

§7-4 Adoption of City of Gillette ePlans Electronic Plan Review Process

A. The City of Gillette ePlans Electronic Plan Review Process, "ePlans", as described on the ePlans Electronic submission and Plan Review web site, <http://www.ci.gillette.wy.us/index.aspx?page=920> and all associated documents including the *City of Gillette ePlans Electronic Review Applicant User Guide*, is hereby adopted by this reference and incorporated herein as if set out in full to regulate how design documents, including plats, maps and engineering plans will be submitted for review by the City of Gillette. ePlans is a computer web-based software application that will be used by design professionals to submit design documents in an electronic digital format. The digital documents will be reviewed by City of Gillette employees who will provide feedback electronically to facilitate thorough, complete and timely review.

B. For purposes of illustration but not limitation, the design documents that are subject to the ePlans requirements include the following items submitted to the following designated City Divisions pursuant to the provisions of other City ordinances.

Planning Division

1. Commercial Site Plans
2. Annexation Plats
3. Sketch Plats
4. Preliminary Subdivision Plats
5. Final Subdivision Plats
6. Development Plans
7. Preliminary PUD Plats
8. Final PUD Plats
9. Easement or Right -of-way Vacations
10. Condominium Plats

Building Inspection Division

1. Commercial Building Permits
2. Residential Building Permits

Engineering Division

1. Permit to Construct
2. Permit to Grade

C. One copy of the *City of Gillette ePlans Electronic Review Applicant User Guide* shall be available for public inspection in the Gillette City hall at the office of the Engineering and Building Department and the office of the City Clerk during normal business hours. The Department of Engineering has provided a copy of the *City of Gillette ePlans Electronic Review Applicant User Guide* and other related materials for public review and download on the City's website at <http://www.ci.gillette.wy.us/index.aspx?page=920>. (Ord. 3676, 5-17-2010; Ord. 3704, 1-18-2011)

§ 7-5 Adoption of the 2011 Storm Drainage Design Manual

The City of Gillette 2011 Storm Drainage Design Manual, prepared by the Department of Engineering of the City of Gillette is hereby adopted by this reference and incorporated herein as if set out in full to regulate the design of public improvements within the City of Gillette starting January 1, 2012. One copy shall be available for public inspection at the office of the Department of Engineering and the office of the City Clerk during normal business hours. The Department of Engineering will also provide copies for sale at a reasonable charge to cover the cost of preparation of the volume. Ord 3780, 12-17-2012, effective 1-1-2013)

ARTICLE 2
Alleys and Easements

§7-6 Alleys and easements.

A. Alley and easement width. Alleys shall be a minimum of 20 feet in width. Easements for underground electrical, phone, cable TV and natural gas shall be a minimum of 10 feet in width. All other easements for utilities shall be a minimum of 20 feet in width. (Ord. 804, § 3, 11-17-75; Ord. 1903, 9-20-93; Ord. 3344, 10-4-2004; Ord. 3676, 5-17-2010)

B. Installation of utilities; Street distances. Gas lines shall be installed within 5 feet of the odd side of the alley or easement. Other utilities shall be installed within 5 feet of the even side. All installations of gas and other utilities shall be in a straight line at a consistent distance from the center-line of the street, alley or easement, said utilities shall be installed on a uniform arc at a consistent distance from the centerline of the street, alley or easement. (Ord. No. 804, § 3, 11-17-75.; Ord. 3344, 10-4-2004; Ord. 3676, 5-17-2010)

C. Grade. Grade shall be within 6 inches of final grade before installing utilities. (Ord. No. 804, § 3, 11-17-85.; Ord. 3344, 10-4-2004; Ord. 3676, 5-17-2010)

D. Penalty. Persons who make or cause to be made changes in grade after utilities are installed are required to bear the costs associated with the change in grade together with any costs of relocating the utilities. (Ord. No. 804, § 3, 11-17-75.; Ord. 3344, 10-4-2004; Ord. 3676, 5-17-2010)

E. City Property. Installation replacing or repair of pipe lines or conduits upon property including streets, alleys, or other public thoroughfares shall be done under the supervision of the City Administrator or his designee. (Ord. 419, §4.0102; Ord. 774, §§ 1, 2, 3-17-75; Ord. 2050, 6-3-96; Ord. 3344, 10-4-2004; Ord. 3676, 5-17-2010)

F. City Property, Excavations. Excavation on City property shall be of minimum necessary to complete the work. If possible, piping will be drilled under streets, alleys, and sidewalks. (Ord. 419, §4.0102; Ord. 774, §§ 1, 2, 3-17-75; Ord. 2050, 6-3-96; Ord. 3344, 10-4-2004; Ord. 3676, 5-17-2010; Ord 3780, 12-17-2012, effective 1-1-2013)

§7-7 (unused) (Ord. 3676, 5-17-2010)

§7-8 (unused) (Ord. 3676, 5-17-2010)

ARTICLE 3

§7-9 (repealed) (Ord. 3891, 4-19-2016)
(Ord. No. 1153, 12-1-80; Ord. 3344, 10-4-2004)

ARTICLE 4
Flood Plain Management.

**§7-10 STATUTORY AUTHORIZATION, FINDINGS OF FACT,
PURPOSE AND METHODS**

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Wyoming has in Wyoming Statutes sections 15-1-103(a) (xi), (xxvii), (xxxii) and (xli) delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Governing Body of the City of Gillette Wyoming does ordain as follows:

SECTION B. FINDINGS OF FACT

(1) The flood hazard areas of Campbell County, Wyoming are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;

3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. Minimize prolonged business interruptions;

5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

7. Insure that potential buyers are notified that property is in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

1. In order to accomplish its purposes, this ordinance uses the following methods:

2. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

3. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

4. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

5. Control filling, grading, dredging and other development which may increase flood damage;

6. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

.(Ord. 2050, 6-3-96; Ord. 3344, 10-4-2004Ord. 3524, 12-3-2007)

§ 7-11. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD - means the flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT - means any area of the building having its floor sub-grade (below ground level) on all sides.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT - means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION- Means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters.
2. the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated

flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY) - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a) by an approved state program as determined by the Secretary of the Interior or;

b) directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE - means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of

temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or

2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE - is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.).

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. 2050, 6-3-96; Ord. 3344, 10-4-2004; Ord. 3524, 12-3-2007)

§7-12 GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Gillette, Wyoming.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Campbell County and incorporated areas," dated January 2, 2008, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM).

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required to ensure conformance with the provisions of this ordinance.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

1. considered as minimum requirements;
2. liberally construed in favor of the governing body; and
3. deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

(Ord. 2050, 6-3-96; Ord. 3344, 10-4-2004; Ord. 3524, 12-3-2007)

§7-13 ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The City Engineer is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.

2. Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

3. Review, approve or deny all applications for development permits required by adoption of this ordinance.

4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is Wyoming Office of Homeland Security, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

8. When base flood elevation data has not been provided in accordance with Gillette City Code §7-12, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Gillette City Code § 7-14.

9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the watersurface elevation of the base flood more than one foot at any point within the community.

10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community **first** applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

SECTION C. PERMIT PROCEDURES

Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Gillette City Code § 7-14, Section B(2);

4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

5. Maintain a record of all such information in accordance with Gillette City Code §7-13, Section (B)(1). Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

10. The relationship of the proposed use to the comprehensive plan for that area.

SECTION D. VARIANCE PROCEDURES

1. The City of Gillette Board of Adjustment is designated the Appeal Board under this ordinance to hear and render judgment on requests for variances from the requirements of this ordinance.

2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision to the District Court of the 6th Judicial District in and for Campbell County, Wyoming, as provided by law.

4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C(2) of this Article (Gillette City Code §7-13) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Gillette City Code §7-10, Section C).

8. Variances shall not be issued within any designated floodway if any increase in floodlevels during the base flood discharge would result.

9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

10. Prerequisites for granting variances:

a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

b) Variances shall only be issued upon:

1) showing a good and sufficient cause;

2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

c) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

a) the criteria outlined in Gillette City Code §7-13, Section D(1)-(9) are met, and

b) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. 2050, 6-3-96; Ord. 3344, 10-4-2004; Ord. 3524, 12-3-2007)

§7-14 PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Gillette City Code § 7-12, Section B, (ii) Gillette City Code § 7-13, Section B(8), or (iii) Gillette City Code §7-14, Section C(3), the following provisions are required:

1. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Gillette City Code § 7-13, Section C(1)a., is satisfied.

2. **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

3. **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b) The bottom of all openings shall be no higher than one foot above grade.

c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. **Manufactured Homes** –

a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

1) the lowest floor of the manufactured home is at or above the base flood elevation, or

2) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

a) be on the site for fewer than 180 consecutive days,

b) be fully licensed and ready for highway use, or

c) meet the permit requirements of Gillette City Code § 7-13, Section C(1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Gillette City Code §7-10, Sections B, C, and D of this ordinance.

2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Gillette City Code §7-12, Section C; Gillette City Code §7-13, Section C; and the provisions of Gillette City Code §7-14 of this ordinance.

3. Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Gillette City Code §7-12, Section B or Gillette City Code §7-13, Section B (8) of this ordinance.

4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Gillette City Code §7-12, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

2. All new construction and substantial improvements of **non-residential** structures;

a) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;

b) together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the

passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Gillette City Code §7-13, Section C (1)a., are satisfied.

4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

SECTION E. FLOODWAYS

Floodways - Located within areas of special flood hazard established in Gillette City Code §7-12, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. If, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Gillette City Code § 7-14.

3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** applies for a conditional FIRM and floodway revision through FEMA. (Ord. 775, §§ 3, 4, 3-17-75; Ord. 912, 12-19-77; Ord. 2050, 6-3-96; Ord. 3344, 10-4-2004; Ord. 3524, 12-3-2007)

§ 7-15**PENALTIES FOR NONCOMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ 750, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Gillette from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 912, 12-19-77; Ord. 2050, 6-3-96; Ord. 3344, 10-4-2004; Ord. 3524, 12-3-2007)

ARTICLE 5
Plant Investment Fees

§7-16 Plant Investment Fees - Sewer.

(a) Sewer connections to the sanitary sewer system of the City within the City shall be made only by the City after application for permission for such service is made. There will be charges made as a Plant Investment Fee-Sewer for all connections, determined by reference to the size of the water meter serving the structure, or other use, connected to the sewer system.

(b) The phrase "connections to the sanitary sewer system" as used in this section shall include not only the connections to the primary sewer system of the City, but all feeder lines connected thereto, whether owned privately or by the City.

(c) The City Engineer or his designated representative shall determine the water meter size required for any structure or other use. All plant investment fees shall be paid prior to the issuance of a Building Permit if required, or upon connection and prior to use if no Building Permit is required. (Ord. 3538, 3-3-2008)

(d) The determination of the City Engineer shall be made according to relevant and prevailing engineering standards such as, for copy of which is available for public inspection during normal business hours in the office of the City Engineer.

(e) Renumbered to §17-12 [§ 7-16], effective January 1, 2005, (Ord. 3334, 8-2-2004; Ord. 3344, 10-4-2004)

(C.O. 1948, § 110; Ord. 376, § 1, 10-3-49; Ord. 426, §1, 6-1-59; Ord. 593, § 1, 9-30-69; Ord. 607, § 1, 2, 12-23-69; Ord. 616, §1, 4-6-70; Ord 672, §§ 1, 2, 5-1-72; Ord 756, § 1, 8-27-74; Ord. 757, § 1, 8-27-74; Ord. 830, §§ 1, 2, 7-19-76; Ord. 848, 10-18-76; Ord. 1079, §2, 4-7-80, Ord. 1500, 11-21-83, Ord. 1578, 2-19-85; Ord. 2050, 6-3-96; Ord. 3334, 8-2-2004; Ord. 3344, 10-4-2004)

§7-17 System Development Charge and Plant Investment Fee - Water.

(a) The Gillette Regional Water Supply System includes water supply facilities, infrastructure, and components necessary to provide water supply to the City of Gillette and Wholesale Customers within a Designated Service Area (DSA), as defined by the

Gillette Regional Water Supply System Joint Powers Agreement (JPA), dated December 21, 2010. A System Development Charge (SDC) will be charged for every new connection, including new Wholesale Customers who have executed a Water Services Agreement, to the Gillette Regional Water Supply System, provided that Wholesale Customers listed in Exhibit C to the JPA shall not be charged a SDC for their initial connection to the Gillette Regional Water Supply System. A SDC will be charged for any additional connection to the Gillette Regional Water Supply System through any Wholesale Customer. Any new connections to the City of Gillette Distribution System shall pay a Plant Investment Fee – Water (PIF-W). (Ord. 3887, 4-19-2016)

(b) The phrase "connections to the Gillette Regional Water Supply System" as used in this section shall include connections to the City of Gillette Distribution System, and all connections by Wholesale Customers and any individual connections to their systems. (Ord. 3887, 4-19-2016)

(c) The City Engineer or his designated representative shall determine the water meter size required for all connections to the Gillette Regional Water Supply System. All SDCs and PIF-W fees shall be paid prior to the issuance of a Building Permit if required, or upon connection and prior to use if no Building Permit is required. (Ord. 3538, 3-3-2008; Ord. 3887, 4-19-2016)

(d) The determination of the City Engineer shall be made according to relevant and prevailing engineering standards such as, for purposes of example but not limitation, the A.W.W.A. Manual #22, a copy of which is available for public inspection during normal business hours in the office of the City Engineer.

(e) Renumbered to §17-12,[§17-17] effective January 1, 2005, (Ord. 3334, 8-2-2004)

(Ord. 1314, 2-1-82, Ord. 1578, 2-19-85, Ord. 2041, 5-6-96; Ord. 2050, 6-3-96; Ord. 3334, 8-2-2004; Ord. 3344, 10-4-2004; Ord. 3887, 4-19-2016)

§7-18 Transfer Of Plant Investment Fee Credits.

A. Plant Investment Fee Credits may be transferred according to the terms of this ordinance.

1. Disconnection of Existing Connections

If any existing connection to the city water or sanitary sewer system is discontinued, the owner of the facility served by that connection, hereinafter the petitioner, may petition the Gillette City Council for its permission to reconnect to the city system for the same size and type of services as discontinued for no cost other than actual installation costs, if those costs are charged for the type and size of connection being made.

2. Transfer of Unexpired PIF credits.

If any Developer has unexpired PIF credits approved under prior ordinances, in excess of the PIFs due in his project for off site or oversized water or sewer utility lines the Developer who is the owner of the unexpired PIF credits, hereinafter the petitioner may petition the Gillette City Council for its permission to transfer the unexpired PIF credit(s) to another location within the City limits. It is the legislative intent that this Ordinance shall apply to all existing unexpired PIF credits, but this Ordinance shall not revive any claims for PIF credits which have expired.

From the date the PIF credits were approved, the developer shall have eight years in which to apply his credit against PIFs and all excess PIF credits shall expire at the end of the original eight year period. If lots within the project whose PIFs have been offset by PIF credits are not connected to the City water and Sewer lines within the original eight year period, then the credit offset will expire and full PIFs will be charged for those lots. If lots whose PIFs have been satisfied by transferred PIF credits are not connected to the City water and Sewer lines within the original eight year period, then the transferred PIF credits will expire and full PIFs will be charged for those lots. PIF credits will only be allowed to transfer one time from the original project that created the PIF credits.

3. Transfer of Subdivision Utilities.

Existing subdivisions which convey water wells including water rights or other similar improvements to the City with the consent of the City, will also receive a further

credit to offset the individual plant investment fees due. In order to allow a reduction in the plant investment fee due, the City Council must adopt a Resolution describing the water and or sewer utility to be acquired in detail and listing the value of the improvements for plant investment fee recovery purposes and the amount of the approved credit. Nothing herein shall be construed as requiring the City to accept any particular improvements for credit purposes and the decision whether or not to accept any particular improvements is vested in the City's sole discretion. PIF credits approved under this section are not transferable.

B. The petitioner shall submit a written request to the City Administrator or his designated representative which shall indicate his name and address, and a description of his request including supporting information.

1. In the case of a transfer of a discontinued connection, the Petitioner shall provide information about the form of ownership of the facility currently serviced, its address, the size and type of service, the date the service was installed, the use made of the facility, the address of the new service location, size and type of the anticipated new service, use of the new facility and a short explanation of why the transfer is desired.

2. In the case of a transfer of unexpired excess PIF credits, the Petitioner shall provide the date of council acceptance of the lines which gave rise to excess credits, the amount of the credit remaining after all PIFs within the project have been credited against the PIF credits, the expiration date of the PIF credits and the service location to which the credits would be transferred.

C. The City Administrator or his designated representative shall review the request, with the assistance of the City Engineer and the Director of the Department of Community Development and shall prepare written recommendations and shall submit them with the request and any other relevant materials to the Council for their approval or denial. In reviewing the request, the factors to be considered include encouraging the upgrading of buildings in the City by creating and continuing an incentive to acquire and redevelop older buildings in the case of the transfer of discontinued service transfers and the redistribution of population density and land use types to achieve increased intercompatibility of mixed uses by permitting the transfer of existing connection credits to new applications. In the case of excess PIF credit transfers, additional factors to be considered include granting

subdividers an increased opportunity to use the PIF credits generated by their development activities and encouraging economic development within the City limits.

D. The decision to approve or deny a request shall rest in the sole discretion of the City Council and their decision shall be in the form of a resolution which shall set forth in particularity the scope of their decision. (C.O. 1948, § 123, Ord. 593, §3, 9-30-69; Ord. 756, §3, 8-27-74; Ord. 948, §1, 7-5-78; Ord. 2097, 4-21-97; Ord. 3344, 10-4-2004; Ord. 3622, 5-18-2009)

§7-19 Payment For Oversized Water and Sewer Lines

A. Whenever sewer or water lines are constructed which are oversized at the request of the City Engineer to permit more connections than those to be made within the subdivision being primarily served, (hereinafter the project) that developer shall be paid for the incremental cost of the oversized sewer or water line at the time the sewer or water lines are accepted by the City.

B. To be eligible for an oversizing payment, the sewer or water line must be capable of serving users outside the project, as a result of over-sizing alone or in conjunction with other design elements and the improvements must conform to the specifications, standards and regulations of the City Engineer. If the sewer or water lines connect the project to the City system across intervening land which is not a part of the project none of the extra cost of that off-site portion of the line or lines is recoverable. Only the base construction and design costs, as described above, of the extra capacity of oversize lines within the project are recoverable. All base construction and design costs are determined by the City Engineer through consultation with the developer and his agents and a review of all relevant cost items. The developer shall competitively bid the water and sewer improvements for both the oversized improvements and improvements without oversizing and submit the bid tabulations for review by the City Engineer to determine the incremental cost of oversizing.

C. If the over-size lines are constructed through the formation of a Local Improvement District in compliance with state law the incremental cost of the oversizing, as determined by the City Engineer shall be applied against the cost of the improvements to reduce the amount of the construction cost for purposes of calculating the assessments.

(Ord. 972, 10-23-79, Ord. 989, 5-7-79, Ord. 1095, 5-5-80, Ord. 1159, 1-5-81 Ord. 1208, 6-15-81, Ord. 1397, 10-4-82, Ord. 1506, 12-19-83; Ord. 1604, 9-16-85; Ord. 2097, 4-21-97; Ord. 3344, 10-4-2004; Ord. 3622, 5-18-2009)

§7-20 Plant Investment Fee Financing.

(a) A person, corporation or association liable for the payment of Plant Investment fees, meeting as a minimum all of the qualifications of the following part (b) may petition the City Administrator for the option of spreading the payments over three years for fees between \$20,000 and \$40,000 and five years for fees over \$40,000 at an interest rate per annum on the unpaid balance to be determined at the time the note is executed, based on the interest rate on the most recent local improvement district bond sale. The qualifying person shall make equal annual principal payments on the anniversary of the date of the note was signed, with interest due at the same time on the unpaid balance. Prepayment in whole or in part is permissible, but shall not waive or excuse the requirement of any annual payment. A note shall be executed by the qualifying person on forms supplied by the City of Gillette securing the payments as described above of Plant Investment Fees.

(b) To qualify for the provisions of the foregoing part (a), it is necessary that:

- (i) The total Plant Investment Fee, pursuant to §5-77 and §5-78 [§7-16 and §7-17] G.C.C. exceeds \$20,000.00; and
- (ii) The project be completely under a single, unified ownership co-extensive with the various uses and facilities giving rise to the fee amount specified in (i) above.
- (iii) A letter of credit from a bank or similar equivalent financial institution for the total amount of the note plus interest shall be delivered to the City to secure payment of the note at the time the note is delivered. The entire letter of credit, including accrued interest shall be immediately due and payable upon any default in any payment due on the note. (Ord. 1644 2-16-87; Ord. 2050, 6-3-96; Ord. 3344, 10-4-2004)

ARTICLE 6
Stormwater Management

§ 7-21. PURPOSE, FINDINGS OF FACT, APPLICABILITY, COMPATIBILITY, SEVERABILITY AND CITY STORM DRAINAGE DESIGN MANUAL

The City of Gillette establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation.

SECTION A. PURPOSE

The purpose of this article is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This article seeks to meet that purpose through the following objectives:

1. Minimize increases in stormwater runoff from any land disturbing activities in order to reduce flooding, siltation and stream bank erosion, and maintain the integrity of stream channels.
2. Minimize increases in non-point source pollution caused by stormwater runoff from land disturbing activities which would otherwise degrade local water quality.
3. Minimize the total annual volume of surface water runoff which flows from any group of development sites, sub-watersheds, or watershed through the use of established stormwater volume control techniques as detailed in the Storm Drainage Design Manual.
4. Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management controls and ensure that these stormwater management controls are properly maintained such that they pose no threat to public health and safety.

SECTION B. FINDINGS OF FACT

It is hereby determined that:

Stormwater runoff contributes to increased quantities of water-borne/non-point source pollutants. Land disturbing activities and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition. Stormwater runoff from commercial, industrial and residential activities further contributes to pollutant loading and increases water volume. These impacts on water quality, soil erosion and

nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff.

Therefore, the City of Gillette establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects, construction activities, and existing urban activities is necessary in order to control and minimize increases in stormwater runoff rates and volumes. The regulation of soil erosion, stream channel erosion, and non-point source pollution associated with stormwater runoff is in the public interest to help prevent threats to public health and safety.

SECTION C. APPLICABILITY

This Article shall be applicable to the entire City of Gillette covering all subdivisions, developments, site plans, residential building permit applications, as well as existing residential, commercial, industrial, and institutional properties, unless eligible for an exemption or granted a waiver by the City of Gillette.

SECTION D. COMPATIBILITY

This Article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this Article imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

SECTION E. SEVERABILITY

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Article shall be judged invalid by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this article.

SECTION F. CITY STORM DRAINAGE DESIGN MANUAL

In Chapter 7, Section 7-5 of Gillette City Code, the City of Gillette has developed and adopted additional policy, criteria, and information, including technical specifications and standards, for the proper implementation of the requirements of this Article and provides such information in the form of a Storm Drainage Design Manual.

The manual may be updated and expanded from time to time, at the discretion of the City of Gillette, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater Management practices must be designed and

constructed in accordance with the design and sizing criteria outlined in the Storm Drainage Design Manual.

One copy of the manual shall be available for public inspection at the office of the Engineering Division and the office of the City Clerk during normal business hours. The document will also be available to download free of charge on the City's website. (Ord. 3891, 4-19-2016)

§ 7-22. DEFINITIONS

1. Applicant means a property owner or agent of a property owner who has filed an application for a stormwater management permit.
2. Best Management Practices (BMPs) shall mean structural or engineered control devices and systems to treat stormwater, which may be temporary or permanent in nature. BMPs may also be non-structural, operational or procedural practices, such as schedules of activities, prohibitions of practices, maintenance procedures, and/or other management practices to prevent or reduce erosion and sediment runoff.
3. Certificate of Termination (COT) means documentation issued by the City Engineer or Chief Building Official of the City of Gillette terminating stormwater permit coverage once construction activities are complete.
4. Channel means a natural or artificial watercourse with a definite bed and banks that conveys continuously or periodically flowing water.
5. City of Gillette shall mean a representative or designee of the City of Gillette to include persons from the Department of Development Services.
6. City of Gillette Engineer shall mean the person currently employed by City of Gillette to serve as City Engineer, or their designee.
7. Dedication means the deliberate appropriation of property by its owner for general public use.
8. Design Professional means a person such as a land surveyor, engineer, architect or other person who has knowledge or training of the application of design principles related to stormwater pollution prevention plans. (Design Professionals are recommended but not required for individual residential lots.)
9. Developer means a person who undertakes land disturbance and/or development activities.

10. Development shall mean a planning or construction project involving substantial property improvement and, usually, a change of land-use character within the site; the act of using land for building purposes.
11. Engineer shall mean a person licensed as a Professional Engineer in the State of Wyoming.
12. Erosion means the wearing away of land as caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.
13. Fee in Lieu means a payment of money, by way of variance approval, in place of meeting all or part of the Stormwater Management standards. The standards and variances are as outlined by this Article and the Storm Drainage Design Manual.
14. Final Stabilization means a uniform perennial vegetative cover with a density of at least 70% of the native background cover that has been established on all disturbed areas that have not been paved over or covered by permanent structures. This, in part, may include any required landscaping for development.
15. Impervious Cover means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).
16. Industrial Stormwater Permit means a National Pollutant Discharge Elimination System (NPDES) permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.
17. Infiltration means the process of percolating stormwater into the subsoil.
18. International Residential Code (IRC) is a comprehensive, stand-alone residential code adopted by the City of Gillette that creates minimum regulations for one and two family dwellings and townhomes of three stories or less. The IRC is the adopted building code for the incorporated areas of the City of Gillette providing for the regulation of the erection, construction, enlargement, alteration, repair, moving, demolition, conversion, occupancy, use, height and area of all buildings and structures.
19. International Building Code (IBC) shall apply to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures. The scope includes all buildings except detached one- and two-family dwellings and townhouses up to three stories.
20. Jurisdictional Wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of

vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

21. Land Disturbance Activity means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.
22. Landowner means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.
23. Municipal Separate Storm Sewer System (MS4) shall mean a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, that is designed or used for collecting or conveying stormwater; not privately owned; not a combined sewer; and not part of a Publically Owned Treatment Works (POTW).
24. Non-point Source Pollution means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
25. Notice of Intent (NOI) serves as the application for permit coverage under WYDEQ Construction General Permit.
26. Notice of Termination (NOT) means the termination of permit coverage associated with construction activity under the Wyoming Stormwater General Permit.
27. Notice of Transfer and Acceptance (NOTA) means the form submitted by the current and future Permittee to the City of Gillette when the responsibility for controlling the stormwater discharges for a construction activity transfers from one operator to another. This form is also used to acknowledge the mutual agreement and acceptance between a homebuilder and a homebuyer that the final stabilization requirements have not been met and that they are being conveyed from one party to the other.
28. Off-Site Facility means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.
29. Outfall shall mean the point or location where stormwater runoff discharges from a conduit, stream or drain, storm sewer, channel, or detention/retention facility.
30. Permittee shall mean the “person responsible for the land-disturbing activity” or who has ownership interest in the property.

31. Person shall mean, except to the extent exempted from this Article, any individual partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, town, county or other political subdivision of the State, any interstate body or any other legal entity conducting land-disturbing activities subject to this article.
32. Qualified Personnel is a person who is familiar with the requirements of the SWPPP, permit conditions and the proper operation and maintenance of all implemented BMPs.
33. Receiving Waters means bodies of water that receive runoff or wastewater discharges, such as ivers, streams, lakes, estuaries, and ground water.
34. Recharge means the replenishment of underground water reserves.
35. Re-development means any construction, alteration or improvement of 2,500 square feet or more in areas where existing land use is high density commercial, industrial, institutional or multi-family residential.
36. Site shall mean the entire area of the land-disturbing activities as proposed in the permit application.
37. Soil Stabilization means either final or temporary stabilization of disturbed areas that are initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding fourteen (14) calendar days.
38. Stop Work Order means an order issued which requires that all construction activity on a site be stopped.
39. Stormwater Discharger and/or Permittee means any person responsible for a construction site, industrial facility or a person who owns or controls personal property or equipment that impacts the quality of stormwater discharges, either by increasing the quantity/volume and/or conveying pollutants via stormwater runoff which flows directly to the MS4.
40. Stormwater Maintenance Agreement is a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of permanent stormwater management practices.
41. Stormwater Management means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.
42. Stormwater Pollution Prevention Plan (SWPPP) shall mean the document required by the City of Gillette as part of any land disturbing activity of 2,500 square feet or more which addresses the temporary and permanent Stormwater Management

activities or BMPs. The WY DEQ minimum requirements for a SWPPP shall be considered as meeting the SWPPP requirements of the City.

43. Stormwater Runoff means flow on the surface of the ground resulting from precipitation.
44. Watercourse means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
45. Wyoming Department of Environmental Quality (Wyoming DEQ) Agency responsible for enforcing the Clean Water Act in the State of Wyoming.
46. Wyoming Pollutant Discharge Elimination System (WYPDES) means the program established by the federal Clean Water Act to regulate the discharge of pollutants into surface waters of the State of Wyoming.

(Ord. 3891, 4-19-2016)

§ 7-23. GENERAL PROHIBITIONS

1. No person, site or facility shall discharge, cause, permit, or contribute to the discharge of any of the following to the municipal storm sewer system or receiving waters except where approved by the City of Gillette and Wyoming DEQ:
 - a. Any liquid, solid, or gas which by reason of its nature or quantity are flammable, reactive, explosive, corrosive, or radioactive or by interaction with other materials could result in fire, explosion or injury;
 - b. Any solid or viscous materials that could cause obstruction to the flow or operation of the municipal storm sewer system;
 - c. Any pollutant that injures or constitutes a hazard to human, animal, plant, or fish life, or creates a public nuisance;
 - d. Any medicinal, infectious, toxic, or hazardous material or waste.
2. No person, site or facility shall discharge into or connect any pipe or channel to a local watercourse or modify a watercourse unless a written permit has first been obtained from the City of Gillette and all other applicable, state and federal jurisdictions.
3. No person, site or facility responsible for new development, significant re-development or construction sites shall fail to use Best Management Practices, as approved in the SWPPP, to control the discharge of pollutants, as defined in the State of Wyoming DEQ Water Quality Rules and Regulations, in stormwater runoff to the municipal separate storm sewer system or its receiving waters.

4. No political subdivision or any person subject to the authority of a political subdivision that discharges, contributes or allows the discharge or contribution of stormwater directly or indirectly to the municipal separate storm sewer system of the City of Gillette shall fail to use Best Management Practices, as approved by the SWPPP, to control the discharge of pollutants and volume of flow in such discharges.
5. No person, site or facility shall allow excessive fugitive dust emission which causes or has the potential of entering public rights-of-way or causes or has the potential to cause harm to public or private property.
6. No person shall construct, use, maintain or continue existence of illicit connections to the storm drain system.
 - a. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - b. A person is considered to be in violation of this article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
7. Exemptions from Discharge Prohibitions

The following discharges are exempt from this article:

- a. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- b. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- c. The prohibition shall not apply to any non-stormwater discharge permitted under a WYPDES and/or NPDES permit, waiver, or waste discharge order issued to the Discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the Discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.
- d. Discharge or connection regulated under an Industrial Stormwater WYPDES Permit provided that the Discharger is in compliance with all requirements of the Permit issued to the Discharger, administered by the Wyoming DEQ, and all other applicable laws and regulations.

- e. Discharges from the following activities, unless identified by the City of Gillette or Wyoming DEQ as significant sources of pollutants to surface waters of the State:
 - i. Waterline flushing;
 - ii. Landscape irrigation, general irrigation, or lawn watering;
 - iii. Diverted stream flows;
 - iv. Rising ground waters;
 - v. Uncontaminated ground water infiltration other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow;
 - vi. Uncontaminated pumped ground water;
 - vii. Discharges from potable water sources;
 - viii. Foundation and footing drains;
 - ix. Air conditioning condensation;
 - x. Non-commercial vehicle washing;
 - xi. Flows from riparian habitats and wetlands;
 - xii. De-chlorinated swimming pool discharges;
 - xiii. Street wash water;
 - xiv. Discharges or flows from firefighting and emergency response activities.

8. Notification of Spills

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation has information of any known or suspected release of hazardous substances or pollutants as defined in the State of Wyoming DEQ Water Quality Rules and Regulations or any illegal discharges discharging into the storm drain system, or waters of the state, the said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous substances, said person shall immediately notify Wyoming DEQ and any other required Emergency Response Agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials

or other illicit discharges, said person shall notify the Wyoming DEQ and any other responsible Emergency Response Agencies and follow up with the City of Gillette in person or by phone or email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Gillette within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Ord. 3891, 4-19-2016)

§ 7-24. STORMWATER PERMIT PROCEDURES AND REQUIREMENTS

1. Permit Required

The City of Gillette has developed a set of stormwater permitting standards that must be met on any construction activity disturbing 2,500 or more square feet of land and that is also required to operate under one of the following City permits; City Building Permit, City Permit-to-Construct, or City Grading Permit.

2. Permit Exemptions

The following activities may be exempt from the stormwater permitting criteria unless they are found to be adversely impacting stormwater runoff, or otherwise found to be noncompliant with the terms of this Article:

- a. Any agricultural activity, as well as common residential gardening practices;
- b. Additions or modifications to existing single family structures disturbing less than 2,500 square feet of land;
- c. Land disturbing activities that disturb less than 2,500 square feet of land, provided they are not part of a larger common development plan, even though multiple separate and distinct land development activities may take place at different times on different schedules;
- d. Repairs to any stormwater facilities deemed necessary by the City of Gillette;
- e. Land disturbance activities permitted by the City prior to the effective date of this Article;
- f. Land disturbance activities that are permitted under a City Street Cut or Right-of-Way Permit as outlined under Chapter 18 of the Gillette City

Code. These projects shall be responsible for erosion and sediment control under the terms of that permit;

- g. City capital construction projects that are managed under City contract and under WYPDES permitting;
- h. WY DOT administered projects within the City that are managed under WY DOT contract and WYPDES permitting.

No landowner or applicant shall receive any of the Building, Grading, Permit-to-Construct, or other land development permits required for land disturbance activities without meeting the requirements of this Article prior to commencing with the proposed activity.

Site disturbances greater than one acre also require a Construction General Permit from the State of Wyoming DEQ. The City of Gillette's requirements for sites greater than one acre are in addition to the requirements of state and federal agencies.

3. Application Requirements

Unless specifically excluded by this article, any landowner or applicant requiring authorization for a land disturbance activity of 2,500 square feet or more shall submit to the City of Gillette a Stormwater Permit Application form provided by the City for that purpose.

A complete permit application form must also include the following:

- a. SWPPP
- b. Copy of Notice of Intent (NOI) submitted to the State as applicable to the requirements of the State of Wyoming (Wyoming DEQ)
- c. Non-refundable Permit Review Fee

4. Application Procedure

Permit applications for land disturbance activity must be filed with the City of Gillette and can be made on any regular business day. In general, the City of Gillette shall inform the applicant whether the application and plan are approved or disapproved within fifteen (15) business days of the receipt of a complete permit application, including all documents as required by this article. If the permit application and SWPPP are disapproved, the applicant may revise the permit application. If additional information is submitted, the City of Gillette shall inform the applicant that the permit application is either approved or disapproved generally within 15 business days from the date the additional information is received. Any additional submittals or plan changes will require additional review fees. If the

permit application, including the SWPPP, is approved by the City of Gillette, all appropriate land disturbance activity permits under jurisdiction of the City may then be issued.

5. Permit Duration

Permits issued under this section shall be valid from the date of issuance through the date of anticipated completion as indicated on the Permit Application, but in no case longer than 12 months for single family residential construction with no more than one 12 month extension allowable with the applicable extension fee having been submitted. For subdivisions and commercial or industrial land development, the permit duration shall be 24 months with no more than one 12 month extension with the applicable extension fee having been submitted.

6. Permit Transfer

When the responsibility for controlling the stormwater discharges for a land disturbance activity changes from one Permittee to another, the current and future Applicant/Permittee shall submit a completed Notice of Transfer and Acceptance (NOTA) form to the City of Gillette. The form must be signed by both parties and shall be submitted to the City of Gillette within 14 days of the change in Permittee. The NOTA form is available from the City.

The new Permittee must comply with all conditions in this permit and with all provisions of the existing SWPPP until such time that the existing SWPPP is amended or replaced by a new SWPPP.

The new Applicant/Permittee may develop and implement a new SWPPP for their parcel(s) that meets all the terms and conditions of this permit, or adopt and continue to implement the original SWPPP provided it is adequate for the new activities occurring on-site. With either option, the Permittee shall ensure, either directly or through coordination with other Permittees that their SWPPP meets all terms and conditions of permit coverage and their activities do not interfere with another party's erosion and sediment control practices.

7. Exceptions to Permit Transfers

For the transfer of properties within a development (e.g., an original developer sells portions of the property to various homebuilders), the new Applicant must obtain their own permit coverage for their activity on that property. The Stormwater Permit shall be obtained prior to or in conjunction with the applicable Building Permit(s) and must be obtained at the time of property transfer. The overall development property will remain active under that Permittee until the conditions of this ordinance are met for Permit termination. Permit transfers would not apply under these circumstances.

For the transfer of properties between a homebuilder and a single family residence homeowner, the homebuilder must obtain signature of the homebuyer on the City provided Notice of Transfer and Acceptance Form. By signing the NOTA, the homebuilder and homeowner are mutually acknowledging that soil stabilization measures are in place, however, that the final stabilization requirement of the property is not yet met. The NOTA also gives notice that it is the homebuyer's responsibility under the language of this ordinance to establish final stabilization by either sod, seeding, landscaping, or other applicable combination of final stabilization measures as outlined in the City's Storm Drainage Design Manual. The homeowner shall have twelve (12) months from the time of signing the NOTA to meet the final stabilization requirement.

8. Permit Termination

When all land disturbing activities are complete and final stabilization and/or required landscaping has been established, the Permittee shall complete a Certificate of Termination (COT) form obtained from the City of Gillette. If covered under the WYPDES Large Construction General Permit, Permit holders are also required to submit a copy of the Wyoming DEQ Notice of Termination (NOT) to the City of Gillette.

The City of Gillette will then conduct a final inspection and issue a Certificate of Termination if conditions of the permit have been met and all stormwater management practices have passed inspection.

If compliance is not met, the City will notify the permit holder to remedy the remaining issues and to request a new final inspection once complete. A COT will only be issued after the City of Gillette has conducted a final inspection and all stormwater management practices have passed final inspection requirements.

Exception to final stabilization requirement for Permit Termination: At the point of property transfer and signing of the NOTA by a single family residence homebuyer and a homebuilder, the homebuilder is also acknowledging compliance with all other requirements of the Permit, including temporary soil stabilization, and can terminate their Permit through the function of the NOTA form and upon final inspection of the site by the City. Final stabilization under this circumstance becomes the homebuyer's responsibility.

(Ord. 3891, 4-19-2016)

§ 7-25. STORMWATER PERMIT FEES

1. Stormwater Permit Fees

The fee for a stormwater permit for any land disturbing application shall be established by the City of Gillette and shall be based on the number of units for Single Family Dwellings, and on the area of disturbance for Subdivisions and Commercial and Industrial Development.

The fees shall be set forth as follows:

Stormwater Permit Fee Schedule			
Subdivisions			
	Area of Disturbance		Permit Fee
	<5 acres		\$100
	5 acres or more		\$0*
Commercial and Industrial Developments			
	<5 acres		\$100
	5 acres or more		\$0*
Permit Extension Fee for all above Permits			\$250
<i>*\$200-\$500 WYDEQ Large Construction General Permit fees apply</i>			
Single Family Dwelling Permits (as defined by IRC)			
Dwelling Units			\$30/unit
Permit Extension Fee			\$100

(Ord. 3891, 4-19-2016)

§ 7-26. EROSION AND SEDIMENT CONTROL INSPECTION

1. Best Management Practices (BMPs) for Erosion and Sediment Control

Installation and maintenance of BMPs for Erosion and Sediment Control are required for all land disturbing activities requiring a Stormwater Permit from the City of Gillette, and any site that discharges sediment into the City’s storm drainage system. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the City of Gillette Storm Drainage Design Manual, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City of Gillette. Specific BMP selection and compliance with the manufacturer’s installation and maintenance criteria are the responsibility of the Permittee.

Site clearing, except those activities necessary to establish sediment control devices, shall not begin until all perimeter and initial phasing sediment control devices have been installed.

Erosion control requirements shall include the following:

- a. Final or temporary stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently or temporarily ceased on any portion of the site and will not resume for a period exceeding fourteen (14) calendar days. Operators are not required to initiate stabilization measures in areas of a project that are essential for site access or work activities until those areas are no longer needed for ongoing access or work.
- b. Temporary stabilization may be used whenever construction activities are expected to resume in the area to be stabilized or when weather or other conditions are not appropriate for initiation of permanent stabilization. Temporary stabilization includes practices such as cover crop planting, installation of rolled erosion products, mulching (provided the mulch is protected from wind such as crimping straw mulch into the soil), or surface roughening (such as plowing to achieve a rough, cloddy surface). Practices that provide equivalent erosion protection may be used.
- c. Areas to be protected include graded slopes, ditches, berms and soil stockpiles and all other disturbed areas with potential to contribute sediment to runoff that will leave the construction site.
- d. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the completion of the construction project and/or close of the construction season (e.g., winter shutdown).
- e. Techniques shall be employed to prevent the blowing of dust or sediment from the site. All entities subject to regulation under this ordinance are required to make every reasonable effort to minimize dust from construction and land disturbing activities.
- f. Techniques that divert upland runoff past disturbed slopes shall be employed.
- g. Where the initiation of stabilization is precluded by snow cover or frozen ground conditions, stabilization measures must be initiated as soon as practicable.

2. Notice of Construction Commencement

The Permittee must notify the City of Gillette before the commencement of construction. Initial inspections specific to the implementation of the SWPPP BMPs shall be conducted by City staff. All inspections shall be documented and written reports prepared that contain the following information:

- a. The date and location of the inspection;
- b. Whether construction is in compliance with the approved SWPPP;
- c. Variations from the approved SWPPP; and/or
- d. Any deficiencies or violations that exist

If any violations or deficiencies are found, the Permittee shall be notified in writing at the time of inspection of the nature of the deficiency or violation and the required corrective actions. No additional work shall proceed until any violations or deficiencies are corrected, or the City of Gillette gives approval for work to proceed.

3. Inspection Requirements

Permittee Inspections:

The Permittee or their qualified personnel shall make regular inspections of all control measures in accordance with the inspection schedule outlined in the approved SWPPP as hereinafter required. All inspections shall be documented in written form.

a. Active construction sites:

Inspections must be conducted in accordance with one of the two schedules listed below. You must specify in your SWPPP which inspection schedule you will use.

1) At least once every 14 calendar days and within 24 hours of any precipitation and/or snow melt event which exceeds 0.5 inches. The Permittee shall have the option of maintaining a rain gauge at their site or using the nearest National Weather Service precipitation gauge station. OR

2) At least once every seven days.

b. Inactive construction sites.

The frequency of inspections may be reduced to once every 30 days after the Permittee has completed earthwork and construction activities at the construction site and has installed BMPs as specified in the SWPPP. All

areas to be inspected monthly must have initiated temporary or permanent stabilization measures as required.

If the qualified personnel responsible for implementing the SWPPP changes, the changes must be noted in the SWPPP within 14 days of transfer of operational control and must list the new qualified personnel.

The SWPPP, inspection reports, and plans for grading, stripping, excavating, and fill work bearing the stamp of approval of the City of Gillette shall all be maintained and available at the construction site unless infeasible. In cases where there is not a trailer or structure to store these documents, they must otherwise be made readily available to the City upon request.

SWPPP retention, plan revisions or amendments, and plan availability shall be managed and as outlined by the WY DEQ SWPPP requirements.

City Inspections:

The City of Gillette may inspect any construction site, industrial facility or other premises required to comply with the provisions of this article to determine compliance with the rules, regulations and standards of the City of Gillette and/or Wyoming DEQ. Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants, or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water quality standards or the WYPDES general construction stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws.

The Permittee shall allow the City or its representatives to enter upon the premises during all regular construction hours for the inspection, sampling and the examination and copying of records. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this article is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this article. All violation notices will be presented to the Permittee in accordance with the Enforcement and Penalties Chapter of this Article.

For single family residential permits, City inspection of BMPs will occur in conjunction with other relevant site inspections, with exception to the initial inspection of BMP installation, which must be coordinated prior to commencing with construction activity.

For residential and commercial subdivisions and commercial or industrial land developments, the Permittee shall notify the City of Gillette of each of the following events in conjunction with the milestones of the project as listed:

- a. Installation of sediment and erosion measures (BMPs) (Preconstruction Meeting)
- b. Start of construction (Preconstruction Meeting)
- c. Completion of site clearing (Weekly Progress Reports)
- d. Completion of rough grading (Weekly Progress Reports)
- e. Completion of final grading (Weekly Progress Reports)
- f. Completion of the construction season (Final Inspections/Project Acceptance)
- g. Completion of final landscaping and/or final stabilization (Permit Termination)

4. BMP Maintenance

On any property on which grading or other work has been done pursuant to a permit granted under the provisions of this Article the Permittee shall, at a minimum, conduct inspections and maintain and/or repair all graded surfaces and erosion control facilities, drainage structures or means and other protective devices, plantings, and ground cover installed while construction is active in accordance with the approved SWPPP, as applicable.

All control devices similar to silt fence or fiber rolls must be repaired, replaced, or supplemented when they become nonfunctional, the sediment reaches 1/3 of the height of the device or as recommended in the manufacture's specification (if manufacturer's specifications are different, then a copy of the specifications should be kept with the SWPPP).

Repairs and maintenance should be made within the following time frames;

- a. Active construction sites: These repairs must be made within 24 hours of discovery, or as soon as field conditions allow access.
- b. Inactive construction sites: These repairs must be made within 14 days of discovery, or as soon as field conditions allow access.

5. Final Stabilization Requirements and Landscaping

Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be stabilized or re-vegetated within fourteen (14) calendar days from the substantial completion of

such clearing activities. Criteria for stabilization are outlined in the Storm Drainage Design Manual.

After construction is complete and final stabilization is installed, the owner or their agent shall continue to regularly inspect the vegetation until adequate turf or other suitable type of stabilization is established as described under the Final Stabilization definition.

At the completion of construction for commercial development, when the required landscaping is utilized as a method of final stabilization, a Notice of Termination will not be granted for the site until landscaping is approved.
(Ord. 3891, 4-19-2016)

§ 7-27. REQUIREMENTS FOR STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

1. A SWPPP is required as part of all stormwater permits which disturb 2,500 square feet or more including subdivisions, commercial, industrial, and residential construction.

No application for development that requires a Stormwater Permit will be approved unless it includes a stormwater pollution prevention plan detailing how the SWPPP will be administered and in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. The SWPPP must indicate whether stormwater will be managed on-site or off-site, and the general location and type of practices.

This plan must be prepared and signed by a Design Professional who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the SWPPP Checklist found in the Storm Drainage Design Manual. For individual residential lots, a Design Professional is recommended but not required. No Permit to Construct, Building, Grading, or Stormwater Permit shall be issued until a satisfactory final SWPPP, or a waiver thereof, shall have undergone a review and been approved by the City of Gillette after determining that the plan or waiver is consistent with the requirements of this article. The SWPPP may be referred for comment to all other interested agencies.

2. Stormwater Pollution Prevention Plan Requirements

A SWPPP shall be required with all permit applications and will include sufficient information as specified in the Storm Drainage Design Manual (e.g., maps, hydrologic calculations, etc.). The intent of this document is to inventory pollutants which have potential to leave the construction site in storm water runoff, identify Best Management Practices (BMPs) which, when implemented, will eliminate or minimize pollutants in runoff and meet the terms and conditions of the permit. Guidance materials for BMP selection and implementation can be found in the

Storm Drainage Design Manual to determine the type of stormwater management measures necessary for the proposed project, and ensure adequate planning for management of stormwater runoff from future development. At a minimum the SWPPP shall meet the requirements of the WYPDES Large and Small Construction General Permit requirements, including:

- a. Identification of a SWPPP administrator
- b. Site description - narrative
- c. Site Map(s)
- d. Type and location of Best Management Practices (BMPs) and perimeter control
- e. Operations/Maintenance/Inspection Schedule(s)
- f. Training
- g. Amendment(s)
- h. Plan Availability/Retention
- i. Final Stabilization

For development or re-development occurring on a previously developed site, an applicant shall be required to include within the SWPPP, BMPs for controlling existing stormwater runoff discharges from the site in accordance with the standards of this article to the maximum extent practicable.

(Ord. 3891, 4-19-2016)

§ 7-28. MAINTENANCE AND REPAIR OF STORMWATER DETENTION FACILITIES

1. Maintenance Covenants

In an effort to minimize danger to public safety and public health, maintenance of all private, post construction detention facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the City of Gillette and recorded into the land record prior to final plan approval. This agreement will include any and all maintenance easements required to access and inspect the stormwater management practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater detention facilities. As part of the covenant, a schedule shall be developed outlining the frequency with which maintenance will occur to ensure proper function of the facility and the parties responsible for maintenance. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts and a facility site map.

In the cases of residential subdivisions, or in other instances as decided by the City Engineer, the City of Gillette, in lieu of a maintenance covenant, may accept dedication of any existing or future detention facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

2. Requirements for Maintenance Covenants

All detention facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this Article and accomplishment of its purposes. These needs may include those outlined in the Storm Drainage Design Manual. Any maintenance needs found must be addressed in a timely manner, as determined by the City of Gillette, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility.

3. Records of Installation and Maintenance Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least 3 years. These records shall be made available to the City of Gillette during inspection of the facility and at other reasonable times upon request.

4. Failure to Maintain Practices

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the City of Gillette, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Gillette shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have ten (10) calendar days to complete/remedy maintenance and repair of the facility in an approved manner. After proper notice, the City of Gillette shall assess the owner(s) of the facility for the cost of repair work plus any penalties which in part shall include an administrative fee of 15%.

5. As-Built Plans and Facility Site Map

All Permittees are required to submit actual "as built" plans and facility site map for any post-construction stormwater detention facilities located on-site after final construction is completed. The plan must show the final design specifications for all permanent BMPs and must be certified by a Wyoming licensed professional engineer. A final inspection by the City of Gillette is required before the Permit to Construct is closed out or a Commercial Project Certificate of Occupancy is issued.

(Ord. 3891, 4-19-2016)

§ 7-29. WAIVERS TO STORMWATER DETENTION REQUIREMENTS

1. Waivers for Providing Post-Construction Stormwater Detention

Every applicant shall provide for stormwater quantity management, unless they file a written request to waive this requirement, and only as approved by the City Engineer. Post-construction water quality is encouraged but not required except when the site directly discharges to a wetland, or as otherwise required by the City Engineer.

The minimum requirements for stormwater detention may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

- a. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this Article.
- b. Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be designed, adequately sized and installed to be able to provide a level of stormwater control/enhancement that is equal to or greater than that which would be afforded by on-site practices and has a legally obligated entity deemed acceptable by the City of Gillette

responsible for long-term operation and maintenance of the stormwater facility.

- c. The City of Gillette finds that meeting the minimum on-site detention requirements is not feasible due to the natural or existing physical characteristics or restraints of a site.
 - d. Non-structural practices are provided that reduce the generation of stormwater from the site. These non-structural practices are explained in detail in the current Storm Drainage Design Manual.
2. In instances where one of the conditions above applies, the City of Gillette may grant a waiver from strict compliance with stormwater detention provisions that are not achievable, provided that acceptable mitigation measures are provided. However, to be eligible for a waiver, the applicant must demonstrate to the satisfaction of the City of Gillette that the immediately downstream waterways will not be subject to:
- a. Deterioration of existing culverts, bridges, dams, and other structures;
 - b. Deterioration of biological functions or habitat;
 - c. Accelerated stream bank or streambed erosion or siltation;
 - d. Increased threat of flood damage, or risk to public health, life or property.

Furthermore, where compliance with minimum requirements for stormwater detention is waived, the Applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the City of Gillette. Mitigation measures may include, but are not limited to:

- a. The purchase and/or donation of privately owned lands or the grant of an easement to be dedicated for preservation of green space shall be undertaken by the City of Gillette. These lands should be located adjacent to the stream corridor in order to provide permanent buffer areas to protect water quality and aquatic habitat.
- b. The creation of a stormwater detention facility or other drainage improvements on previously developed properties, public or private, that currently lack BMPs designed and constructed in accordance with the purposes and standards of this article.

3. Fee-in-Lieu of Stormwater Detention

Where the City of Gillette waives all or part of the minimum stormwater detention requirements, or where the waiver is based on the provision of adequate stormwater detention facilities provided upstream or downstream of the proposed development, the Applicant shall be required to pay a fee in accordance with the basin fee schedule (unless the developer and the City of Gillette agree on a greater alternate contribution) established by the City of Gillette, and based on the percent imperviousness of the proposed project over and above existing site conditions. All of the monetary contributions shall be credited to an appropriate Stormwater Capital Improvements Program project fund, and shall be made by the Developer prior to the subdivision plat being recorded or, if no record plat is required, prior to issuance of building permit or Permit to Construct.

The basin fee map can be found in the City’s Stormwater Master Plan, and the corresponding basin fee schedule is set forth as follows:

Basin Fee Schedule	
Basin(s)	Basin Fee (per impervious acre)
1, 2, 3, 4	\$0.00
6, 7, 8, 9, 10, 12	\$1,608.00
5, 11	\$3,357.00

4. Dedication of Land or Other Improvements

In lieu of a monetary contribution, an Applicant may obtain a waiver of the required stormwater detention by entering into an agreement with the City of Gillette for the granting of an easement or the dedication of land by the Applicant, to be used for the construction of an off-site stormwater detention facility. The agreement shall be entered into by the Applicant and the City of Gillette prior to the recording of plat or, if a recorded plat is not required, prior to the issuance of the building permit or Permit to Construct.

5. When a site development plan is submitted that qualifies as a re-development project as defined in Chapter 7-22 of this Article, decisions on permitting and on-site stormwater detention requirements shall be governed by stormwater sizing criteria found in the current Storm Drainage Design Manual. This criterion is dependent on the amount of impervious area created by the development and its impact on water quality. Final authorization of all re-development projects will be determined after a review by the City of Gillette Engineering Division.

(Ord. 3891, 4-19-2016)

§ 7-30. BASIC STORMWATER DETENTION DESIGN CRITERIA

Unless judged by the City of Gillette to be exempt or granted a waiver, all site designs shall establish stormwater detention practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. While not required to achieve quality standards at this time, these practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

The City of Gillette Storm Drainage Design Manual specifies performance criteria for each stormwater management practice.

1. Minimum Control Requirements

All stormwater management practices will be designed so that the specific storm frequency storage volumes as identified in the current Storm Drainage Design Manual are met, unless the City of Gillette grants the applicant a waiver or the applicant is exempt from such requirements.

In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Gillette reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

2. Site Design Feasibility

Stormwater management practices for a site shall be chosen based on the physical conditions of the site. Applicants shall consult the Storm Drainage Design Manual for guidance on the factors that determine site design feasibility when selecting a stormwater management practice.

3. Conveyance Issues

All stormwater management practices shall be designed to convey stormwater to allow for the reduction in flow velocities and minimization of pollutant discharges. This shall include, but not be limited to:

- a. Maximizing of flowpaths from inflow points to outflow points
- b. Protection of inlet and outfall structures
- c. Elimination of erosive flow velocities
- d. Providing of underdrain systems, where applicable

The City of Gillette Storm Drainage Design Manual provides detailed guidance on the requirements for conveyance for each of the approved stormwater management practices.

4. Stream Channel Protection

Non-structural controls reduce the volume of stormwater runoff generated on-site and eliminate opportunities for pollutants to enter the stormwater system. Wherever possible developments should seek to preserve existing natural features such as riparian setbacks and enhance buffer areas.

5. Non-Structural Stormwater Practices

The use of non-structural stormwater treatment practices is encouraged in order to minimize the reliance on structural practices. Reductions in the amount of stormwater runoff can be obtained through the use of non-structural practices that reduce the generation of stormwater from the site. These non-structural practices are explained in detail in the Storm Drainage Design Manual and Applicants wishing to use non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.

(Ord. 3891, 4-19-2016)

§ 7-31. ENFORCEMENT AND PENALTIES

1. It will be the responsibility of the Stormwater Discharger and/or Permittee to ensure compliance with all sections of this Article.

A Stormwater Discharger and/or Permittee who violates any provision of this Article, even if it does not violate any WYPDES permit conditions or limitations, is subject to enforcement and penalties described herein.

2. Enforcement Mechanisms

- a. It is the intent of this Article that a process of compliance be pursued, when possible, prior to enforcement measures.

- b. Violations may be enforced through any or all of the following measures:

- i. Notice of Deficiency
- ii. Notice of Violation and Civil Penalty
- iii. Stop Work Order
- iv. Permit(s) Suspension and/or Revocation
- v. Proceedings in Law

- c. If, in the City of Gillette's assessment, the activities or lack of activity of the Stormwater Discharger and/or Permittee warrant or necessitate a more intensive enforcement mechanism, the City of Gillette may pursue those

enforcement measures. The City of Gillette shall make the assessment of warrant and/or necessity based on a number of factors including, but not limited to, history of non-compliance, blatant disregard for the requirements or immediate adverse impact to adjacent properties, the MS4 and/or Waters of the State.

3. Notice of Deficiency

In instances when the City of Gillette, based on observations or investigations, has reasonable cause to believe that a deficiency of this Article has occurred, the City of Gillette is authorized to notify the Stormwater Discharger and/or Permittee in writing of the following items:

- a. Date and location of the site observation(s) or investigation(s)
- b. An itemized list of any deficiencies or failures
- c. A deadline in which the corrective actions are to be completed
- d. The written Notice of Deficiency shall be hand delivered, emailed, or mailed to the Stormwater Discharger and/or Permittee

4. Notice of Violation and Civil Penalty

When the City of Gillette determines that an activity is not being carried out in accordance with the requirements of this Article, and compliance has not been achieved through a Notice of Deficiency, the City shall issue a written Notice of Violation to the Stormwater Discharger and/or Permittee.

The Notice of Violation shall specify the following:

- a. Date and location of the site observation(s) or investigation(s)
- b. An itemized list of any deficiencies, violations or failures
- c. A deadline in which the corrective actions are to be completed
- d. The written Notice of Violation shall be delivered to the Stormwater Discharger and/or Permittee via certified mail

The Stormwater Discharger and/or Permittee shall notify the City of Gillette in writing of the anticipated date of completion of the corrective action(s). When compliance measures specified in the Notice of Violation are satisfactorily completed based upon inspection by the City of Gillette on or after the anticipated completion date, the City of Gillette shall provide a written Notice of Acceptance and confirmation of compliance.

Failure to comply with the written notice described above or with any section of this article shall be deemed a misdemeanor offense. For any violation of this article there shall be a maximum fine of seven hundred fifty dollars (\$750) per day per violation, and any other penalty as prescribed under section 16-1 of the Gillette City Code. Each day of violation constitutes a new offense.

5. Stop Work Order

In the event compliance cannot be achieved within the terms of a Notice of Deficiency or Notice of Violation, the City of Gillette may proceed with a Stop Work Order. In the event the City of Gillette perceives that there is an immediate adverse impact or blatant disregard for the requirements, it may issue a Stop Work Order without first administering a Notice of Deficiency, Notice of Violation, Permit Suspension or Permit Revocation. The Stop Work Order shall be delivered to the Stormwater Discharger and/or Permittee and/or posted on the job site.

Persons receiving a Stop Work Order will be required to halt all construction activities. This Stop Work Order will be in effect until the City of Gillette confirms that the land disturbing activity is in compliance and the violation has been satisfactorily addressed. Failure to comply with a Stop Work Order can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Article.

6. Permit/License Suspension and/or Revocation

In the event compliance cannot be achieved within the terms of a Notice of Deficiency and/or Notice of Violation, the City of Gillette may proceed with permit(s) suspension or revocation. The City of Gillette may also follow all procedures outlined by the Board of Examiners for the suspension of Contractor license for failing to build in compliance with this Article. The City of Gillette may also refuse issuance or suspend any additional permits when all other methods of enforcement have proven unsuccessful.

When suspension or revocation has occurred:

- a. Land-disturbing activities are not allowed on a project site when a permit has been suspended or revoked other than those required to address deficiencies/violations.
- b. The written Permit Suspension or Revocation shall be hand delivered and/or sent by certified mail to the Permittee.
- c. A Permit Suspension may require that the Permittee submit a revised portion of the Stormwater Pollution Prevention Plan as indicated by the City of Gillette for review and acceptance by the City of Gillette of the specific

issue of contention. When a Permit Suspension is removed, the City of Gillette shall provide written notice to the Permittee.

- d. A permit Revocation requires that the Permittee resubmit a Stormwater Pollution Prevention Plan for a full review and acceptance by the City of Gillette.
- e. When a permit is revoked, the Permittee must re-apply for permit coverage through the normal permitting process and shall be required to pay established permit fees.

7. Legal Proceedings

If the enforcement mechanisms described in this Article prove to be unsuccessful in reaching compliance, or there is a blatant disregard for the requirements, or there is an immediate adverse impact to adjacent private or public property, the City of Gillette may proceed with all procedures afforded it under the laws of the City of Gillette and the State of Wyoming including injunctive relief.

(Ord. 3891, 4-19-2016)

§ 7-32. RIGHT TO APPEAL

Any Stormwater Discharger and/or Permittee (hereinafter the Discharger) aggrieved by the actions outlined in this article by the Chief Building Official or City Engineer of the City of Gillette in their administration of these regulations may file an interim appeal. For grievances of the enforcement actions rendered by the City Engineer or Chief Building Official, the Discharger will file their appeal with the Development Services Director. The appeal shall be in writing, shall be submitted within seven (7) days of the action or decision appealed from, and shall state the specific relief which the Discharger seeks. Within seven (7) days of receipt of the request, the Development Services Director will issue formal findings determining the proper disposition of the matter.

In the event the Discharger is dissatisfied with the formal findings issued according to the preceding paragraph, they may request a hearing before the City of Gillette Board of Examiners by filing a Notice of Appeal with the Building Official within ten (10) days of mailing date of the written findings. The Notice of Appeal shall be in writing, and shall state the specific relief which the Discharger seeks. Within thirty (30) days of the receipt of the Notice of Appeal, the City of Gillette Board of Examiners shall hold a hearing to determine the proper disposition of the matter. At the hearing, the Board of Examiners shall consider not only the testimony of the Discharger, but also the testimony of the Chief Building Official, City Engineer, or Development Services Director as the case may be, (hereinafter the City Official) who issued the order or took that action that is the subject of the appeal, and shall review the materials originally filed in support of the interim appeal and the formal findings. The City of Gillette Board of Examiners shall either reaffirm or modify the decision in the record of its hearing. Upon completion of the hearing, the Board

of Examiners shall notify the Discharger and the City Official of its decision by sending written findings of fact and conclusions of law (the Final Order) by certified mail. The Discharger may then proceed based upon this decision of the City of Gillette Board of Examiners.

The Discharger or the City Official may appeal by filing a Notice of Appeal within thirty (30) days of postmarked mailing date of the Board's Final Order and have the record of their case reviewed by the Gillette City Council. The hearing before the City Council shall be on the record as a whole as it was developed before the Board of Examiners. The Discharger and the City Official shall be given the opportunity to make oral argument before the City Council. The City Council may affirm or reverse the decision appealed from and may direct that the Board of Examiners conduct further hearings.

The failure of the Discharger to appeal as provided in this section shall make the action of the City Official final and not subject to review in any other tribunal. The failure of the Discharger to attend the hearing before the Board of Examiners, as provided in this section, shall make the decision of the City Official final and not subject to review in any other tribunal.

(Ord. 3891, 4-19-2016)